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FILED

IN THE
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS

JUN - 5 2008 *adw*
6-5-2008
MICHAEL W. DOBING
CLERK, U.S. DISTRICT COURT

Anthony Wheeler, pro se,
petitioner.

VS.

Roger E. Walker, et al.,
defendants.

**MOTION FOR DEPOSITION BEFORE
ACTION OR PENDING APPEAL**

Fed. R. Civ. P. #27(b)

U.S.D.C. #08 CV 1637

U.S.C.A. #08-1898

Hon: Charles P. Kocoras
judge presiding

MOTION FOR DEPOSITION BEFORE ACTION
OR PENDING APPEAL

Now comes, Anthony Wheeler, (petitioner-pro se) and respectfully moves this Honorable Court pursuant to Fed.R.Civ.P. #27(b) to hereby enter an order granting this Motion For Deposition Before Action Or Pending Appeal in the above entitled cause of action.

In support thereof, this petitioner hereby states:

That this Motion is being filed in "good faith" and not intended to hinder, disrupt or further delay this Appeal process.

1. An Appeal has been taken from a judgment entered by the Honorable Judge Charles P. Kocoras, in the United States district Court for the Northern District of Illinois on March 26, 2008. (filed April 14, 2008)

2. That this pro se-petitioner seeks Leave of this Honorable Court examine the testimony of Danny Delgado #K-92173, who at all times mentioned in this action was the cell mate of this petitioner in Stateville Correct-

ional Center, F-House, Cell #245. Danny Delgado #K-92173, currently resides at the Lawrence Correctional Center, Rural Ruote #2, Box #31, Sumner, Illinois, 62466.

3. The testimony of Danny Delgado #K-92173, is in dire need, in the cause of action in the interest of fundamental fairness and Due Process.

4. Insofar as, Danny Delgado #K-92173, can clearly, and by virtue of the deplorable and horrific conditions that he himself were forced to endure: (1) That this petitioner was housed in punitive segregation, maximum security unit while on a court writ from a medium security facility unit without a violation of any prison rules, notice of charges, a disciplinary hearing, or any form of due process. (2) The petitioner was housed in a filthy, roach infested cell, with a broken window, badly tattered mattress and malfunctioning toilet for a period of (14) days under conditions that were clearly unfit for human habitation. (3) That petitioner was denied any medical attention for the severe flu-like symptoms that he suffered while housed in the cold "unheated" cell during the bitter cold November days. (4) That the petitioner repeatedly requested and was repeatedly denied any cleaning supplies, i.e., broom, mop, rags, pine sol, disinfectant, exterminating agents or any supplies to maintain cleanliness in said cell for said period of time described herein. (5) That petitioner was housed in adjoining cells and unit (punitive segregation) and thus subjected to the very same restrictions, limitations and conditions as other inmates, that were housed in said unit for violating prison rules and pending criminal charges. (6) That other inmates frequently set fires, banged on the bars all day, screamed and yelled which caused this petitioner sleep deprivation. (see complaint p. #2, #3, #4)

WHEREFORE, this petitioner humbly prays that this Honorable Court hereby enters an order granting this Motion For Leave to Depose the herein mentioned party in this cause.

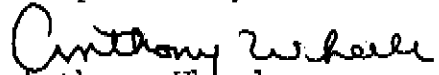
Respectfully Submitted,

Anthony Wheeler, pro se
Reg. #a-81100
P.O. Box 999
Pinckneyville, Ill. 62274

IN CONCLUSION

In conclusion, this petitioner strongly contends that this issue(s) escapes noticeability, at first, unless litigated in this fashion.

Respectfully Submitted,



Anthony Wheeler, pro se

Reg. #a-81100

P.O. Box 999

Pinkneyville, Ill. 62274

I, Anthony Wheeler, #a-81100, after being first duly sworn under oath, deposes and avers that the attached document is true, accurate and correct and to the very best of my personal knowledge and belief.

1. That at all times relevant to this cause of action, this affiant shared the cell at the Stateville Correctional Center, Cell #245, with inmate Danny Delgado #K-92173.

2. That the testimony of Danny Delgado #K-92173, is relevant and material to this cause of action in the spirit of fundamental fairness.

3. That all times relevant to this cause, this affiant and Danny Delgado #K-92173, were on a court writ, and without probable cause or justification this affiant and Danny Delgado #K-92173 were placed in punitive segregation (F-House-Cell #245) and thereby subjected to the inhumane and horrific conditions and restrictions described in this complaint. (see Statement of facts in complaint, p. #2#3,#4)

SUBSCRIBED AND SWORN TO UNDER
A PENALTY OF PERJURY

ON THIS 1st DAY OF June
AFFIANT: Anthony Wheeler

NOTICE, PROOF OF SERVICE

Notice is hereby being given that I, Anthony Wheeler #A-81100 have filed that attached Motion For Deposition Before Action Or Pending Appeal, on this 1st day of June 2008. This by depositing same in the mai box at the Pinckneyville Correctional Center, P.O. Box 999, Pinckneyville, Illinois, 62274.

To: Office of the Clerk
U.S. District Court
219 S. Dearborn Street
Chicago, Ill. 60604

SUBSCRIBED AND SWORN TO UNDER
A PENALTY OF PERJURY
ON THIS 1st DAY OF June 2008
AFFIANT: Anthony Wheeler